

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

IMMIGRATION COURT

300 ALA MOANA BLVD., ROOM 8-112

HONOLULU, HI 96850

LOCAL OPERATING PROCEDURES

General

These Local Operating Procedures are promulgated pursuant to the authority vested by 8 C.F.R. Section 3.40 (1995) for the purpose of facilitating the convenient, efficient, and orderly conduct of the business of the United States Immigration Court at Honolulu, Hawaii. These rules govern the procedures within the jurisdiction of Hawaii and Guam. These Local Operating Procedures are not to be applied inconsistently with any immigration laws or regulations.

Procedure 1. Readiness

1.1 All matters shall proceed at the date, time and place scheduled for hearing. Parties shall be prepared to go forward with their cases.

Procedure 2. Filing Procedures

2.1 All documents, applications, and written motions shall be filed by mail, in person or by other delivery service at the public window of the Immigration Court at Honolulu during regular hours as posted in the Immigration Court or as otherwise directed by the Immigration Judge.

2.2 In addition to complying with 8 C.F.R. Sections 3.32, and 3.33, all proposed exhibits and briefs shall be filed as ordered by the Immigration Judge.

2.3 All documents, applications and motions submitted by counsel for consideration by the Immigration Court shall be two-hole punched at the top and center of the page with holes 2 3/4 inches apart.

2.4 If a document is smaller than 8 1/2 x 11 inches, it must be taped or stapled to an 8 1/2 x 11 inch blank sheet of paper. If the document is larger than 8 1/2 x 11 inches, it may be reduced in size by photocopying, or other appropriate means as authorized by the presiding Immigration Judge, as long as it is legible. Otherwise, a larger document should be folded to 8 1/2 x 11 inches.

2.5 Unless otherwise permitted by the Immigration Judge, all exhibits and documents exceeding ten (10) pages in length shall have as a first page an index. Each page of exhibits and documents shall be identified with page number identification in the lower center. If, in addition to page numbering, exhibit tabs are used, they are to be placed on the right side of the document. A certificate of service on the opposing party shall be attached as the last page of the documentation submitted, which certificate shall specifically describe the nature of the documents served. Any submission not meeting these requirements will not be accepted for filing and will be returned to the offeror.

2.6 All applications, motions, or documents must be filed by the date ordered by the Immigration Judge. If no date has been ordered by the Immigration Judge, all materials must be filed no later than fifteen (15) calendar days prior to the scheduled Individual Calendar hearing unless otherwise authorized by the Immigration Judge. If a document is offered after the expiration of the filing deadline, or within fifteen (15) days of the date of the hearing if no deadline was set, the document may not be accepted unless supported by a declaration of counsel of the offeror, or if not represented, a declaration by the unrepresented party that the document is material and was not available and could not have been discovered or presented by the filing deadline, or for good cause shown as determined by the Immigration Judge.

Any objection to a proposed exhibit must be filed within ten (10) days of the filing of the proposed exhibit. The objection must set forth the specific basis for the objection and be supported with appropriate evidentiary materials.

2.7 Counsel shall provide a list of proposed witnesses intended to be called and a brief statement of each witness' expected testimony. All proposed witness lists, along with the statements, must be filed by the date ordered by the Immigration Judge. If no date has been ordered by the Immigration Judge, the witness list must be filed no later than fifteen (15) calendar days prior to the scheduled Individual

Calendar hearing unless otherwise authorized by the Immigration Judge.

If a witness list is offered after the expiration of the filing deadline, or within fifteen (15) days of the date of the hearing, if no deadline was set, the witness may be precluded from testifying unless the witness list is supported by a declaration of counsel for the offeror that the witness' testimony is material and was not available and could not have been discovered or presented by the filing deadline.

Any objection to the proposed testimony of a witness must be filed within ten (10) days of the filing of the proposed witness list. The objection must set forth the specific basis for the objection and be supported with appropriate evidentiary materials

Procedure 3. Continuances

3.1 In addition to complying with 8 C.F.R. Sections 3.23(a), 3.29, and 3.32, a request for continuance of any scheduled hearing shall be made by written motion supported by an affidavit or declaration under penalty of perjury setting forth in detail the nature of the request and the reasons therefor. The motion shall include the date and time of the scheduled hearing, and the alien's name and file number.

3.2 The motion shall be filed with the Immigration Court no later than fifteen (15) days prior to the scheduled hearing. Motions submitted within fifteen (15) days of the hearing will be considered only with the consent, and in the discretion of the Immigration Judge for good cause shown. In accordance with the 8 C.F.R. Sections 3.23(a) and (b), and except as otherwise ordered by the Immigration Judge, any party opposing a motion served in accordance with this provision shall, no later than ten (10) days after the filing of the motion, file with the court a written response to said motion. Failure to timely respond shall result in the motion being deemed unopposed.

3.3 Pendency of a motion for continuance does not excuse appearance at any scheduled hearing addressed by the motion. Unless notified by the Immigration Court that the continuance has been granted, all parties must attend the hearing prepared to go forward.

Procedure 4. Motions

4.1 In addition to complying with 8 C.F.R. Section 3.23, all motions submitted prior to the Individual Calendar hearing must be filed with the court and served upon the opposing party no later than fifteen (15) days prior to the scheduled Individual Calendar hearing unless otherwise specified at the Master Calendar.

4.2 Motions submitted by counsel for consideration by the Immigration Judge must be accompanied by a proposed order.

4.3 A motion submitted on a pre-decision basis must bear the name and file number of the case. It must include the date and time of the upcoming Master or Individual Calendar hearing. The word "MOTION" shall be displayed in prominent letters below the case caption.

4.4 A motion submitted on a post-decision basis shall bear the case name, file number and the phrase "POST-DECISION MOTION" in prominent letters below the caption. If it is a motion to reopen or reconsider, it must comport with 8 C.F.R. Section 3.23(b) and the provisions cited therein. If applicable, it must indicate whether an appeal from the decision was taken to the Board of Immigration Appeals.

4.5 In accordance with 8 C.F.R. Sections 3.23(a) and (b), except as otherwise ordered by the Immigration Judge, any party opposing a motion served in accordance with the provisions of 8 C.F.R. Sections 3.13 and 3.32 shall, no later than ten (10) days after the filing of the motion, file with the court a written response to said motion. Failure to timely respond may result in the motion being deemed unopposed.

4.6 Any motion not meeting the above requirements may not be accepted for filing or consideration, and will be returned to the filing party.

Procedure 5. Withdrawal and Substitution of Counsel

5.1 Withdrawal of counsel is only by permission of the Immigration Judge assigned to the matter in question. Withdrawal of representation shall be requested by written motion (or oral motion in court) addressed to the Immigration Judge. The motion for withdrawal shall set forth the following:

A. The reason(s) for the request;

B. Evidence of the client's consent to withdraw, or a statement of why evidence of such consent is unobtainable;

C. The current or last known address of the client;

D. All efforts made to notify the client of the motion to withdraw;

E. That the client has been notified of all outstanding deadlines in the case, and of the date, time and place of the next scheduled hearing in the matter; of the necessity of meeting deadlines and appearing at scheduled hearings; and of the consequences of failure to meet deadlines or appear at scheduled hearings.

5.2 Substitution of counsel shall be requested by written or oral motion accompanied by Notice of Entry of Appearance on Form EOIR-28 completed by the attorney/representative assuming representation in the matter. Such motion shall be accompanied by evidence that the client is aware of the substitution or that a reasonable attempt has been made to make the client aware thereof.

5.3 Counsel shall continue to be considered by the court as counsel or co-counsel of record until a motion to withdraw or for substitution has been granted by the court.

Procedure 6. Motions to Change Venue

6.1 In addition to complying with 8 C.F.R. Sections 3.20, 3.23(a) and 3.32, all motions for change of venue submitted by counsel shall contain the respondent/applicant's plea to the allegations and charge(s) in the charging document; the designation of a country in the event of removal or deportation or the declination to designate such a country; the relief, if any, which the respondent/applicant will be requesting; the date and time of any scheduled hearing; and a clear and detailed statement of the reasons for the request.

6.2 The pendency of a motion to change venue does not excuse appearance at the scheduled hearing addressed by the motion. Unless the motion is granted in writing prior to the hearing, the parties and their counsel will be expected to appear at the hearing prepared to go forward.

6.3 Nothing in this procedure shall be construed to inhibit the Judge's authority to waive the provisions of this procedure and address expeditiously motions to change venue in custody cases or other appropriate cases.

Procedure 7. Pre-hearing Statements or Briefs

7.1 A failure to abide by a briefing schedule set by the court may be deemed a waiver or concession of the issues in question. The failure to file a pre-hearing statement directed in accordance with 8 C.F.R. Section 3.21 shall be deemed a waiver or concession of the issue in question, and/or could result in the action directed by the pre-hearing order unless good cause is shown for the failure to comply with the briefing scheduled or file a pre-hearing statement.

Procedure 8. Trial Preparation

8.1 At the Master Calendar hearing, the parties shall be prepared as follows:

A. Respondent/Applicant shall be prepared to respond to the allegations and charges in the charging document, and to concede or deny proper

service of the charging document and notice of the hearing.

B. Respondent/Applicant shall be prepared to indicate all forms of relief from removal, deportation, or exclusion sought.

Respondent/Applicant shall be prepared to designate the country for removal or deportation purposes or to decline a designation if necessary.

C. Both parties shall be prepared to state, in weeks, the time needed to brief the issues and file and exchange exhibits, and state, in hours, the estimated time needed to present the case at the Individual Calendar hearing.

D. The Immigration and Naturalization Service shall be familiar with the contents of its alien file and be prepared to state its position on all issues and applications for relief from removal, deportation, or exclusion.

8.2 At the Individual Calendar hearing, both parties shall be prepared to present all remaining testimony and evidence on all issues, including rebuttal and closing argument.

Procedure 9. Attorney/Representative's Change of Address or Telephone Number

9.1 If an attorney/representative in any pending matter changes address or telephone number, he or she shall advise the Immigration Court by a written notification solely and specifically for that purpose. Each pending case shall be referenced by case name and file number.

